

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MONICA STORY, an individual,

Plaintiff,

v.

XTREME MANUFACTURING, LLC,

Defendant.

Case No. 1:22-cv-00228-ADA-HBK

ORDER GRANTING CONSTRUED JOINT  
MOTION FOR LEAVE TO FILE AMENDED  
COMPLAINT CONTAINED IN JOINT  
STATUS REPORT

ORDER CONTINUING INITIAL  
SCHEDULING CONFERENCE FOR  
11/17/2023 at 10:30 a.m.

(Doc. No. 15)

On September 15, 2022, the parties filed a Joint Status Report in response to the Court's August 31, 2022 Minute Order. (Doc. Nos. 14, 15). In the Joint Status Report, the parties note that Defendant filed a partial motion to dismiss Plaintiff's tenth cause of action set forth in the First Amended Complaint ("FAC") for violations of California's Unfair Competition Law ("UCL"), or in the alternative, strike allegations of California Labor Code, which Plaintiff subsequently agreed to dismiss. (*Id.* at 1)(*see also* Doc. No. 12). The parties further request that Plaintiff be allowed leave to amend her FAC by filing a second amended complaint ("SAC") to remove count 10 of the FAC. (Doc. No. 15 at 2). As a result, the parties note Defendant's partial motion to dismiss is no longer at issue and will be moot upon the filing of a second amended

1 complaint. (*Id.*)(*see also* Doc. No. 10). The Court construes the Joint Status Report as  
2 incorporating a joint motion for leave to file an amended complaint.

3 Rule 15 governs amended complaints and supplemental pleadings. Fed. R. Civ. P. 15.  
4 Under Rule 15(a)(2), “a party may amend its pleading only with the opposing party’s written  
5 consent or the court’s leave” and the “court should freely give leave when justice so requires.”  
6 Defendant consents to Plaintiff filing a second amended complaint. (*See* Doc. No. 15).  
7 Assuming the second amended complaint omits Plaintiff’s tenth cause, the partial motion to  
8 dismiss will be mooted by operation of law upon its filing.

9 In order for the proper pleadings to be before the Court, the Court will continue the initial  
10 scheduling conference currently set for October 20, 2022 to November 17, 2022 at 10:30 a.m.

11 Accordingly, it is **ORDERED**:

12 1. The parties’ construed joint motion for leave to file a second amended complaint (Doc.  
13 No. 15) to remove count 10 of the first amended complaint is GRANTED.

14 2. Plaintiff shall file a second amended complaint within seven (7) days of the date on  
15 this Order. Defendants shall file a response to Plaintiff’s second amended complaint within  
16 fourteen (14) days after its filing. Fed. R. Civ. P. 15(a)(3).

17 3. The Court CONTINUES the initial telephonic scheduling conference currently  
18 scheduled for October 20, 2022 to **November 17, 2022 at 10:30 a.m.** The parties shall file an  
19 updated scheduling report, if appropriate, no later than seven (7) days before the rescheduled  
20 initial scheduling conference.

21  
22 Dated: October 17, 2022

23   
24 HELENA M. BARCH-KUCHTA  
25 UNITED STATES MAGISTRATE JUDGE  
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